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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,458	03/19/2004	Michael Tate Wood	C.R. DANIELS-PA-6	7254

7590

11/14/2006

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EXAMINER

POLLICOFF, STEVEN B

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,458	Applicant(s) WOOD ET AL.	
	Examiner Steven B. Pollicoff	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolpin (US Pat 2,901,018) in view of Jones et al., (US Pat 6,256,922).

With respect to claims 1 and 2, Kolpin discloses a firearms case comprising a fabric enclosure (Kolpin column 1 lines 59-61; i.e. canvas) having a fabric outer shell (Fig 1 reference number 22) sewn to a padded inner liner (Fig 2 reference number 24), reinforced around a peripheral seam (Fig 1 reference number 20). Kolpin also discloses that the shell and padded inner liner are folded lengthwise (Fig 1) and sewn together at one end (20) to form an elongate enclosure closed along one side (12; the rubber bumper forms the closed one side) and said end. The enclosure also has an end access opening (when flap 16 is opened) selectively closeable and a first fold over flap

(16) moveable between an open and closed position releasably secured over the end access opening to prevent access to the fabric enclosure. Kolpin does not disclose that the enlongate enclosure closed along said side and said end has a sidelong access opening selectively closeable with fold over flaps attached by hook and loop fasteners and a second fold over flap moveable between an open and closed position releasably secured over the sidelong access opening to prevent access to the fabric enclosure, whereby when both of said first and second flaps are moved to their respective open positions to fully expose said conjoined sidelong and end access openings they allow the gun case to be quickly turned inside out for cleaning and or drying. Kolpin also does not disclose that the fold over flap of the end access opening is attached by hook and loop fasteners. However, Jones discloses a firearms case with a first fold over flap (Fig 7 at ref 160 to the far left), an end access opening (Jones Fig 1 reference number 110), a second fold over flap (Fig 7 at ref 160 near ref 100) and a conjoined sidelong access opening (100) both with Velcro closures (Fig 7 reference number 160) attached. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the case of Kolpin to include a side access opening, a second fold over flap and Velcro closures, as taught by Jones, for the purpose of easier encasing firearms of various sizes (Jones column 2 lines 29-30).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolpin (US Pat 2,901,018) and Jones et al., (US Pat 6,256,922) as applied to claim 1 above, and further in view of Binney (US Pat 4,257,464).

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With respect to claim 3, Kolpin as modified above does not disclose that the padded inner liner includes a rust preventative to inhibit corrosion of a gun stored therein. However, Binney discloses a liner including a woven facing that is impregnated with a rust preventative to inhibit corrosion of a gun stored therein (column 1, lines 37-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inner liner fabric of Kolpin as modified by impregnating the inner liner with the rust preventative of Binney for the purpose of preventing rusting, corrosion, and pitting of the metal parts (column 1, lines 44-48).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolpin (US Pat 2,901,018) and Jones et al., (US Pat 6,256,922) as applied to claim 1 above, and further in view of Broun et al., (US Pat 5,431,970).

With respect to claim 4, Kolpin as modified above does not disclose that the case further comprises padding between the fabric outer shell and the padded inner liner. However, Broun discloses a tri-layer protective material for cases (including gun cases; see Broun Fig 3B) where the middle layer (Broun Fig 1B reference number 14) is made of foam (i.e. padding) to protect against impact and abrasion of the contents held within. The padding also provides floatation should the case be dropped in water (column 4, lines 49-53). Therefore, it would have been obvious to one of ordinary skill in the art to at the time the invention was made to provide a middle padding layer, as taught by Broun, to the case of Kolpin as modified to further protect the contents against breakage or scratching from dropping and ordinary use and to provide floatation should the case inadvertently end up in water.

Response to Arguments

Applicant's arguments filed 9/13/06 have been fully considered but they are not persuasive. Applicant argues that neither Kolpin nor Jones show the combination of a first fold over flap at the widened end of the gun case, a second fold over flap occupying a significant portion of the length of the case, and a first flap opening conjoining the second flap opening allowing the case to be quickly turned inside out for cleaning. This is unpersuasive because clearly the combination teaches a first flap (Kolpin Fig 1 ref 16), a second flap (Jones Fig 7 ref 160) and that the first and second openings are conjoined (ref 110). In response to applicant's argument that the combination does not teach allowing the case to be quickly turned inside out for cleaning, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, the structural limitations are clearly met by the combination.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

4/3/11
SBP 11/02/06


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